

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

SALVADOR JIMENEZ
TDCJ #0870962,

Plaintiff,

v.

TDCJ-CID DIRECTOR,

Defendants.

2:17-CV-139-Z-BR

ORDER ADOPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Before the Court are the findings, conclusions, and recommendation of the United States Magistrate Judge to grant in part and deny in part Defendants' motions to dismiss (ECF Nos. 84, 95) ("Motions"). *See* ECF No. 97 ("FCR"). No objections to the FCR have been filed. After making an independent review of the pleadings, files, and records in this case, the Court concludes that the FCR of the Magistrate Judge are correct. It is therefore **ORDERED** that the findings, conclusions, and recommendation of the Magistrate Judge are **ADOPTED**. Accordingly, the Court

ORDERS the following:

- The Motions are **GRANTED** as to Plaintiff's claims for money damages, and those claims are **DISMISSED** without prejudice;
- The Motions are **GRANTED** as to all Plaintiff's claims against Defendants Lumpkin and Davis in their individual capacity and under a theory of supervisory liability, and those claims are **DISMISSED** with prejudice;
- The Motions are **DENIED** as to Plaintiff's Fourteenth Amendment claims in Defendants' official capacities;
- The Motions are **DENIED** on the basis of exhaustion and limitations; and
- Defendant Davis is **DISMISSED** from this lawsuit in her official capacity pursuant to Federal Rule of Civil Procedure 25(d).

The effect of this Order is that Plaintiff's claims against Defendant Lumpkin in his *official capacity* remain. Further proceedings shall list Lumpkin as the Defendant TDCJ Director. *See Fed. R. Civ. P. 25(d).*

IT IS SO ORDERED.

December 21, 2023



MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE